



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**SEP 15 2017**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Frank Galante, CEO  
Green Way Solutions II, LLC  
99 Hudson Street, Suite 527  
New York, New York 10013

Re: Administrative Order EPA-5-17-113(a)-COE-02

Dear Mr. Galante:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-3850.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Frank", is written over a horizontal line.

Nathan Frank, Chief  
Air Enforcement and Compliance Assurance Section (IL/TN)

Enclosure

cc: Louise Gross/C-14J

Robert Buettner, Chief  
Air Compliance Branch  
US EPA Region 2

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>EPA-5-17-113(a)-COE-02</b>
	)	
<b>Green Way Solutions II, LLC</b>	)	<b>Proceeding Under Sections 113(a)(3) and</b>
<b>New York, New York</b>	)	<b>114(a)(1) of the Clean Air Act, 42 U.S.C.</b>
	)	<b>§§ 7413(a)(3) and 7414(a)(1)</b>
_____	)	

**Administrative Consent Order**

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Green Way Solutions II, LLC (Green Way Solutions) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

**Statutory and Regulatory Background**

2. Section 612 of the CAA, 42 U.S.C. § 7671k, authorizes EPA to identify, review and restrict the use of substitutes for “Class I” and “Class II” ozone-depleting substances (ODS).

3. Section 612(a) of the CAA, 42 U.S.C. § 7671k(a), requires that, to the maximum extent practicable, Class I and Class II ODS be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.

4. Under Section 612(a) of the CAA, 42 U.S.C. § 7671k(c), EPA promulgated the “Significant New Alternatives Policy” (SNAP) program regulations at 40 C.F.R. Part 82, Subpart G. These regulations establish standards and requirements for the use of Class I and Class II substances used in specific major industrial sectors where a substitute is used to replace an ODS including, among other things, refrigeration and air conditioning. See 59 *Fed. Reg.* 13044 (March 18, 1994).

5. Among the purposes of the SNAP regulations is to provide for safe alternatives to ODS and to identify substitutes for ODS that present lower overall risks to human health and the environment relative to Class I and Class II substances being replaced. 40 C.F.R. § 82.170(a)-(b).

6. The SNAP Program, at 40 C.F.R. § 82.176(a), requires any producer of a new substitute to submit a notice of intent to introduce a new substitute into interstate commerce 90 days prior to such introduction.

7. The SNAP Program, at 40 C.F.R. § 82.174(a), prohibits any person from introducing a new substance into interstate commerce before the expiration of 90 days after a notice is initially submitted to EPA under 40 C.F.R. § 82.176(a).

8. Under the SNAP regulations at 40 C.F.R. § 82.174(b), no person may use a substitute which a person knows or has reason to know was manufactured, processed or imported in violation of the SNAP regulations.

9. Under the SNAP regulations at 40 C.F.R. § 82.172, “substitute or alternative” is defined as “any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II compound.”

10. Under the SNAP regulations at 40 C.F.R. § 82.172, “use” is defined as “any use of a substitute for a Class I or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses.”

11. Under the SNAP regulations at 40 C.F.R. § 82.172, “person” is defined to include a corporation.

12. Under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating

the SNAP regulations. The Administrator has delegated this authority to the Regional Administrator, Region 5, who has redelegated this authority to the Director of the Air and Radiation Division, Region 5.

13. The Administrator of EPA may require any person who is subject to any requirement of the CAA to provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Regional Administrator, Region 5, who has redelegated this authority to the Director of the Air and Radiation Division, Region 5.

### **Findings**

14. Green Way Solutions is a corporation with a place of business at 225 North Fehr Way, Bay Shore, New York (the Bay Shore facility).

15. At the Bay Shore facility, Green Way Solutions sells and distributes hydrocarbon refrigerants under the registered trademark "Priority Cool®."

16. Green Way Solutions is a "person" under the SNAP regulations and is subject to the SNAP regulations at 40 C.F.R. Part 82, Subpart G.

17. Green Way Solutions sells and distributes flammable hydrocarbon refrigerants called "HC22a/502a" and "HC12a/134+," which it markets as "drop-in" replacements for the Class II ODS R-22 (HCFC-22) and Class I ODS R-502 (a blend of CFC-115 and HCFC-22), and Class I ODS R-12 (CFC-12) and R-134a, respectively, in the refrigeration and air conditioning sector.

18. The Material Safety Data Sheets for "HC22a/502a" and "HC12a/134+" state that they are "extremely flammable gas[es]" that are "potentially explosive" and "may cause flash

fire” and that “accidental releases pose a serious fire or explosion hazard.” Product labels for “HC22a/502a” and “HC12a/134+” state that they “can form explosive mixtures with air.”

19. No notice of intent to introduce “HC22a/502a” or “HC12a/134+” into interstate commerce was submitted to EPA. EPA has not approved “HC22a/502a” as a substitute for R-22 or R-502. EPA has not approved “HC12a/134+” as a substitute for R-12.

20. Green Way Solutions is subject to the requirements of Section 612 of the CAA, 42 U.S.C. § 7671k. Therefore, Green Way Solutions is subject to the requirements of Section 114(a)(1) of the CAA.

21. On January 28, 2016, EPA issued an information request to Green Way Solutions under Section 114(a) of the CAA, 42 U.S.C. § 7414.

22. On March 23, 2016 and June 13, 2016, Green Way Solutions submitted information to EPA in response to the January 28, 2016 information request.

23. On August 30, 2016, EPA issued to Green Way Solutions a Finding of Violation (FOV) alleging that it violated the SNAP provisions at 40 C.F.R. Part 82, Subpart G, by introducing “HC22a/502a” and “HC12a/134+” into interstate commerce before the expiration of 90 days after initial submission to EPA of the notice of intent, and by using substitutes (“HC22a/502a” and “HC12a/134+”) which it knew or had reason to know were manufactured, processed or imported in violation of the SNAP regulations.

24. On October 31, 2016, representatives of Green Way Solutions and EPA discussed the August 30, 2016 FOV. During that discussion, Green Way Solutions informed EPA that the company filed a patent application for “HC22a/502a,” that it owned the rights to “HC12a/134+,” and that it no longer sells “HC22a/502a” and “HC12a/134+.”

### **Compliance Program**

25. By the effective date of this Order, Green Way Solutions must achieve, demonstrate and maintain compliance with the SNAP regulations with regard to all of its refrigerant sales.

26. If Green Way Solutions intends to sell “HC22a/502a,” “HC12a/134+” or any other refrigerant substitute or alternative, either domestically or internationally, it must submit a notice of intent to EPA or otherwise determine that a notice of intent has been submitted to introduce such product into interstate commerce in accordance with the notification requirements at 40 C.F.R. §§ 82.176(a) and 82.178.

27. As of the effective date of this Order, Green Way Solutions must not manufacture, blend, package, market, advertise, sell, distribute, or otherwise use “HC22a/502a,” “HC12a/134+” or any other substitute or alternative, unless and until an initial notification for such product has been submitted to the EPA SNAP program pursuant to 40 C.F.R. § 82.176(a) and it has been approved by EPA as a substitute under the SNAP program.

28. As of the effective date of this Order, Green Way Solutions shall not name any refrigerant product using a variation of ODS refrigerant nomenclature, unless that product is an EPA-approved replacement for such ODS, and shall rename any such existing product in accordance with this paragraph (*e.g.*, R-22 is an ODS; Green Way Solutions shall not sell a product named “HC-22a,” regardless of whether Green Way Solutions intends to sell “HC-22a” as a replacement for R-22 or some other refrigerant).

29. Within 15 days of the effective date of this Order, Green Way Solutions shall notify, by mail or email, all known past customers of “HC22a/502a” and “HC12a/134+” of those refrigerants’ status as unacceptable substitutes and the potential safety hazards described in

40 C.F.R. Part 82, Subpart G, Appendix V. A copy of such notification is attached to this Order as Exhibit A.

30. If Green Way Solutions sells the intellectual property (IP) rights to “HC22a/502a” and/or “HC12a/134+” to a third party, Green Way Solutions must notify the third party that “HC22a/502a” and/or “HC12a/134+” are subject to the SNAP regulations if manufactured, blended, packaged, marketed, advertised, sold, distributed, or otherwise used within the United States.

31. If Green Way Solutions sells the IP rights to “HC22a/502a” and/or “HC12a/134+” to a third party, within 15 days of the sale, Green Way Solutions must notify EPA in writing of the name and address of the third party to which the IP is sold.

32. Green Way Solutions must send all reports and other information required by this Order to EPA at:

Attention: Compliance Tracker (AE-18J)  
Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Reports should include a cover letter that specifies the report is being submitted pursuant to a requirement of ACO EPA-5-17-113(a)-COE-02.

#### **General Provisions**

33. This Order does not affect Green Way Solutions’ responsibility to comply with other federal, state and local laws.

34. This Order does not restrict EPA’s authority to enforce the CAA and its implementing regulations.

35. Failure to comply with this Order may subject Green Way Solutions to penalties of up to \$45,268 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

36. The terms of this Order are binding on Green Way Solutions, its assignees and successors. Green Way Solutions must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

37. Green Way Solutions may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Green Way Solutions fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

38. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

39. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.



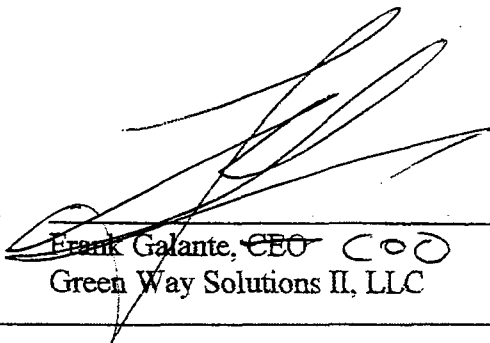
40. Green Way Solutions agrees to the terms of this Order. Green Way Solutions waives any remedies, claims for relief, and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).

41. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Green Way Solutions has complied with all terms of the Order throughout its duration.

Green Way Solutions II, LLC

8-31-17

Date

  
Frank Galante, CEO COD  
Green Way Solutions II, LLC

**United States Environmental Protection Agency**

9/15/17  
Date

Edward Nam  
Edward Nam  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

## Appendix A

Dear Priority Cool Customer:

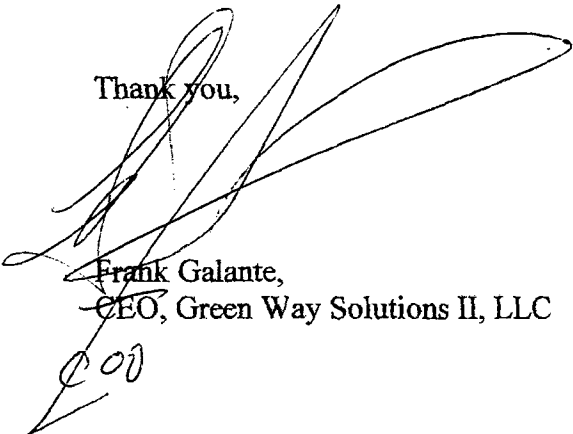
We are sending you this letter because you have been identified as a past purchaser of HC-22a/502a or HC-12a/134+. The United States Environmental Protection Agency (EPA) has requested that I send you this letter to notify you of EPA's concerns regarding potential safety hazards and legal restrictions regarding the use of *flammable* hydrocarbon refrigerants as substitute or retrofit (i.e., "drop-in") refrigerants for *non-flammable* ozone depleting refrigerants such as R-12, R-22 and R-502. EPA is concerned that the use of flammable hydrocarbon refrigerants as direct replacements or retrofit for non-flammable refrigerants in equipment not designed and approved for such use may create a risk of fire or explosion.

Additionally, EPA asks that we advise you that there are certain applicable legal restrictions to the use of flammable hydrocarbon replacement refrigerants. Many older refrigerants, including R-12, R-22, and R-502, are ozone depleting substances (ODS). ODS are being phased out of production and importation because they deplete the Earth's stratospheric ozone layer. As part of the global transition away from ODS, the United States' commitment requires EPA's Significant New Alternatives Policy (SNAP) Program to evaluate and approve substitute refrigerants so that they can safely and legally replace ODS. EPA evaluates these potential substitute refrigerants according to health, safety and environmental criteria described in the SNAP regulations. Where ODS substitutes are approved by SNAP, they are strictly limited to approved use conditions. EPA's SNAP Program has approved HC-12a/134+ as an ODS substitute only for industrial processing use, and has not approved HC-22a/HC-502a as ODS substitutes.

EPA has informed us that if you sell, distribute, manufacture or market an ODS substitute without SNAP approval or outside any SNAP Program-approved uses, you are doing so in violation of SNAP Regulations and the Clean Air Act. EPA has also recommended, more generally, that flammable hydrocarbon refrigerants should not be used in appliances not specifically designed for their use and, likewise, to advise any of your customers regarding the potential risks associated with such use.

Additional information on these issues may be found at <http://www.epa.gov/ozone/snap/>.

Thank you,

  
Frank Galante,  
CEO, Green Way Solutions II, LLC

**CERTIFICATE OF MAILING**

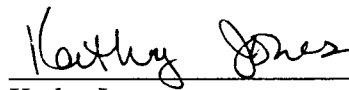
I certify that I sent the Administrative Consent Order, EPA-5-17-113(a)-COE-02, by certified mail, return receipt requested, to:

Frank Galante, CEO  
Green Way Solutions II, LLC  
99 Hudson Street, Suite 527  
New York, New York 10013

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-17-113(a)-COE-02, by E- mail to:

Robert Buettner, Chief  
Air Compliance Branch  
US EPA Region 2  
Buettner.Robert@epa.gov

On the 18 day of September 2017.



Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT  
NUMBER:

7009 1680 0000 7647 6414